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# Govt bombs out in tax fight with Alcan

By **EMILY WATKINS**

A TERRITORY mining company has won a four-year court battle to avoid paying millions of dollars in taxes to the Government.

The NT Government tried to get Alcan to pay more than \$47 million in stamp duty and penalties over its 2001 purchase of the Gove mine and land lease.

The payment has been fought out in the courts for the past four years, and

yesterday the High Court of Australia ruled in favour of Alcan's appeal.

The court found that under the legislation at the time, the Government could not make the mining giant pay the fee.

Stamp duty expert Leon Loganathan, a partner at Ward Keller, said Alcan won on a technicality because of a "drafting flaw" in the legislation.

"Alcan structured the transaction to (legally) minimise the stamp duty

they had to pay," he said. "In this instance perhaps stamp duty should have been paid."

Chief Minister Paul Henderson said the legislation would be looked at to see if it could be improved, but Mr Loganathan said it had been redrafted many times since the Alcan Gove transaction, and the same issue would not come up again.

"I feel a little bit sorry for the Commissioner," Mr Loganathan said. "But the Commissioner makes the

rules and in this case he didn't quite make them tight enough."

The court awarded legal costs to Alcan, which it is understood could cost Treasury up to \$5 million for both parties over the four years of court proceedings.

Mr Henderson said he was disappointed but the Government had not "factored in" winning the case to its budget.

"We certainly don't budget for those (one-off) payments," he said.

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